

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LAURA ALLEN, INDIVIDUALLY AND AS )  
ADMINISTRATRIX OF THE ESTATE OF )  
DAN ALLEN, AND AS NEXT FRIEND OF )  
TAYLOR ALLEN AND DANIELLE ALLEN, )  
and MARK ALLEN, )  
Plaintiffs )

v. )

MARTIN SURFACING, INC.; MARTIN )  
SURFACING, A DIVISION OF SOUTHWEST )  
RECREATION; RONALD RYBA; )  
SOUTHWEST RECREATIONAL )  
INDUSTRIES, INC., d/b/a MARTIN )  
SURFACING; REED J. SEATON; ROBERT N. )  
WOLESENSKY, JR.; DYNAMIC SPORTS )  
CONSTRUCTION, INC. AND DOES, )  
Defendants )

CIVIL ACTION  
NO. 05-40048-FDS

**DEFENDANT, REED J. SEATON'S MOTION TO COMPEL**

NOW comes the Defendant, Reed J. Seaton, by and through counsel, and pursuant to Rule 37 of the Federal Rules of Civil Procedure, respectfully moves the Court to compel responses of the Plaintiffs, as follows:

1. On or about September 19, 2005, the Court (Saylor, J.) issued a Scheduling Order in the above-captioned matter. Said order set forth that due to the complexity of the present matter as well as "the substantial uncertainty as to the proper defendant(s) to this litigation..." the discovery herein would be handled in phases.
2. Phase I of the discovery process was, according to the order, to revolve around the issues of jurisdiction and the identity of the appropriate defendants.
3. On or about October 6, 2005, this defendant propounded Interrogatories and Requests for Production of Documents to the Plaintiffs. The same were designed, specifically, to address the issues of jurisdiction and identity of the proper parties, as set forth in the Court's

September 19, 2005 Order. Copies of the same are attached hereto as Exhibits "A" and "B," respectively.

4. As of the present time, Plaintiffs have not responded nor objected to the Interrogatories marked as Exhibit "A." Answers to the Interrogatories are presently overdue.

5. On or about November 2, 2005, Plaintiffs served their Response to the Requests for Production. The same are attached hereto as Exhibit "C." In essence, the Plaintiffs simply inserted the same, boilerplate, objection to each and every Request made by this Defendant. No documents, whatsoever, were provided with the purported Responses.

6. As of the present time, the Plaintiffs have provided no documents supportive of their allegations, either in conjunction with their Initial Disclosure or otherwise, in this litigation.

7. In light of the above, this Defendant seeks an Order of Court:

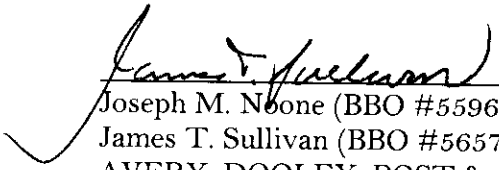
- (a) compelling the Plaintiffs to respond to the Interrogatories within such reasonable time, as determined by the Court; and
- (b) compelling the Plaintiffs to meaningfully respond to the Requests for Production within such reasonable time, as determined by the Court.

8. In lieu of receipt of the same, within such time as set forth by the Court, this Defendant requests that he be dismissed from the present action, with prejudice.

WHEREFORE, Defendant, Reed J. Seaton, requests that his within motion be allowed.

REED J. SEATON

By his attorneys,



Joseph M. Noone (BBO #559644)  
James T. Sullivan (BBO #565700)  
AVERY, DOOLEY, POST & AVERY, LLP  
90 Concord Avenue  
Belmont, MA 02478  
(617) 489-5300

Dated: December 1, 2005

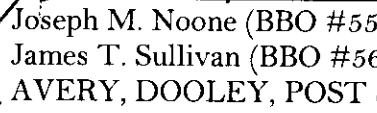
CERTIFICATE OF SERVICE

I, James T. Sullivan, hereby certify that I have this 1<sup>st</sup> day of December, 2005, forwarded the within ***Defendant, Reed J. Seaton's Motion to Compel*** to all counsel of record by delivering a copy of same, first class mail, postage prepaid, to:

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